

Invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC LAW

H4

FEB 10 2015

FILE:

Office: LOS ANGELES, CALIFORNIA

Date:

IN RE:

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under § 212(a)(2)(A) of the
Immigration and Nationality Act, 8 U.S.C. § 1182(a)(2)(A).

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on November 19, 2003 and gave notice to the applicant that he had 33 days to file the appeal. Though the appeal was timely filed the Executive Office of Immigration Review (EOIR), Citizenship and Immigration Services did not receive the appeal until January 14, 2004, or 56 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.